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Permanent Forum on Indigenous Issues
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Items 3, 4, 5, 7, 8 and 9 of the provisional agenda*

Special theme: "Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges"

Implementation of the recommendations on the six mandated areas of the Permanent Forum and on the Millennium Development Goals

Human rights: dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

Half-day discussion on indigenous languages

Ongoing priorities and themes and follow-up

Future work of the Permanent Forum, including emerging issues

Information received from Governments

Colombia**

Summary

The Colombian State has continued to implement the relevant constitutional provisions and domestic regulations, as well as the international obligations it has undertaken, with a view to preserving the nation's multi-ethnic nature and protecting its ethnic and cultural diversity by means of a differentiated public policy.

* E/C.19/2008/1.
** The present report was submitted late so that the most recent information could be included.

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I. Government efforts towards the Millennium Development Goals and plan of activities of the Office of Ethnic Affairs regarding the goals, objectives and Programme of Action for the Second International Decade of the World's Indigenous People[1]

1. The Colombian Government takes action in response to all international human rights recommendations through its Presidential Programme for Human Rights and International Humanitarian Law. This Programme develops coordination schemes involving, first, the assignment of tasks to different entities, each of which undertakes commitments in relation to the objectives being sought; and second, the conduct of follow-up meetings to assess the results obtained by each entity.

2. The Office of Ethnic Affairs of the Ministry of the Interior and Justice, together with indigenous communities, is designing a public policy framework on indigenous peoples in order to guide the efforts of all State entities in this area. In preparing this draft framework, the Office of Ethnic Affairs, as a policymaking body, takes into account the recommendations of international organizations such as those of the United Nations system and the Organization of American States.

3. The draft is designed to be implemented for all the indigenous peoples of Colombia, although meetings for its preparation, definition and coordination are to be held in Bogotá and in strategic localities in each macroregion.

4. The specific objectives of this project are to:

(a) Systematize existing information (baseline studies, research, life plans, etc.);

(b) Prepare a preliminary baseline study on indigenous peoples' living conditions;

(c) Propose a policy framework based on the problem areas identified in relation to indigenous peoples in each macroregion;

(d) Draw up a proposed public policy framework with indigenous peoples, with the active participation of stakeholders and other interested parties;

(e) Apply the principle of prior consultation in the process of developing a public policy framework with indigenous peoples;

(f) Include, in the next national development plan, the public policy framework agreed upon with indigenous peoples.

5. The thematic areas are as follows: territory, identity, socio-economic issues, autonomy, self-government and participation and prior consultation.

6. While public policy for indigenous peoples must be comprehensive, for methodological reasons its construction, formulation, implementation, evaluation and follow-up must address the above-mentioned thematic areas.

[1] Questions 1 and 8 of the questionnaire are answered in this section, as the information provided relates to both of them.

7. In accordance with the recommendations made at the sixth session of the Permanent Forum on Indigenous Issues, the progress made in the areas of education and culture is described below.

Education

8. The General Education Act establishes affirmative-action measures to increase ethnic minorities' access to education, bearing in mind that article 68 of the Political Constitution of Colombia stipulates that in State educational institutions "no individual may be obliged to receive religious instruction. Members of ethnic groups shall be entitled to an education that respects and develops their cultural identity". The right to education is thus linked to the declaration on the multi-ethnic and multicultural nature of the Colombian nation, with a view to protecting this diversity and affirming its value.

9. In this connection, since the adoption of the 1998-2002 national development plan, ethnic education programmes have been developed with a special emphasis on bilingual and multicultural education, primary education and expansion of the coverage of secondary education through innovative methodologies of relevance to dispersed population groups. In addition, mechanisms for modifying Decree No. 804 of 1995 on ethnic education are being considered. Efforts will be made to ensure that institutions of higher education provide financial assistance to indigenous students, under the coordination of the Ministry of Education and the Ministry of the Interior.

10. The Ministry of Education has implemented and promoted a policy on ethnic education, in application of the standards contained in the Political Constitution of Colombia, particularly in articles 7, 13, 246 and 330, as well as the ordinary and special regulatory framework under Law No. 115 of 1994 and Decree No. 804 of 1995, respectively. Within this regulatory framework the public service of education is regulated to ensure that it fulfils its social function, in line with the needs and interests of the individual, the family and society, while generating the necessary mechanisms for affording the members of the various ethnic groups, in acknowledgement of the country's ethnic and cultural diversity, the opportunity to enter and to remain and advance in the educational system in appropriate conditions of quality, relevance and equity.

11. The 2002-2006 sectoral plan "Education revolution" proposed the implementation of projects to enhance education's relevance for the benefit of the most vulnerable population groups, in order to correct problems of inequity, discrimination or isolation. The plan is based on the idea that ethnic education tailored to each community should be promoted in conjunction with a standard curriculum for all Colombians so as to broaden the dialogue between different bodies of knowledge.

Culture

12. The Ministry of Education and the Ministry of Culture have carried out a series of joint actions aimed at preserving ethnic traditions such as the language or cosmogony of particular groups. Specifically, these actions consisted of:

- The publication of a grammar textbook on the Cofán language for the first to fifth grades, benefiting 3,000 pupils in the indigenous communities of San Miguel and Valle del Guamuez in the Department of Putumayo;
- The design of ethnic education curricula for the first to fifth grades for indigenous communities along the Miriti, Paraná and Middle Caquetá Rivers in Amazonas, covering 19 community schools and 874 pupils, including boys, girls and young people.

13. Also worthy of note is the work of the Caro y Cuervo Institute, a centre for advanced research and cultural and academic training that facilitates and coordinates, together with national and foreign entities, the implementation of plans, programmes and projects in the areas of philology, literature, linguistics and the history of the culture of books and reading. The Institute has an ethnography museum and a department of indigenous linguistics.

14. The department of indigenous linguistics of the Caro y Cuervo Institute was established as a result of Decree No. 786 of 31 March 1944, which promulgated implementing regulations for the law establishing the Institute and provided that one of the latter's functions would be to study the languages and dialects of the aboriginal civilizations of Colombia.

II. Children and youth, women and free, prior and informed consent

A. Indigenous children and youth

15. According to the National Administrative Department of Statistics,[2] the population of minor age numbers 15,184,330, of whom 12,494,045 report that they do not belong to any ethnic group and 638,837 report that they belong to the indigenous population. Of the total number of Colombia's indigenous inhabitants, 46 per cent are of minor age; of the latter, 38 per cent are between the ages of 0 and 5, another 38 per cent between the ages of 6 and 12 and the remaining 24 per cent between the ages of 13 and 17.

16. To benefit indigenous children and adolescents, the current development plan calls for a broadening of the coverage of programmes to support and meet the needs of special population groups such as older persons, persons with disabilities, children and pregnant and lactating women and for the strengthening of indigenous education through the participatory design of ethnic education programmes linked to the educational system to guarantee broader coverage and better quality at the various levels.

17. In 2004 the Colombian Family Welfare Institute, the International Organization for Migration (IOM), the Latin American Human Rights Association and the Office of the Ombudsman, together with a number of civil-society organizations,[3] implemented a project on promotion, prevention and training in the area of human rights, international humanitarian law, collective rights and the

[2] 2005 national census.

[3] The participants included 150 representatives of national and regional indigenous organizations and 33 indigenous administrators, leaders and/or authorities of indigenous peoples.

indigenous legal road map, aimed at spreading awareness of the legal framework of national and international standards for the protection of indigenous peoples' rights and for children under 18 who have been demobilized from illegal armed groups. This project was prompted by the conditions suffered by members of this population group because of political violence and because they belong to indigenous peoples. Emphasis was placed on respect for indigenous authorities' right to decide how to deal with demobilized children and young people,[4] since, in this situation, they must be consulted and supported with a view to protecting such children.

18. With respect to children, Colombia issued Law No. 1098 of 2006, the Children's and Adolescents' Code,[5] to bring Colombian legislation into line with the Convention on the Rights of the Child and other international obligations concerning the protection of children and adolescents. Article 1 of the Code states that its aim is to "(...) ensure the full and harmonious development of children and adolescents by enabling them to grow up in a family and community environment, in an atmosphere of happiness, love and understanding. Their equality and human dignity shall be recognized without discrimination of any kind".

19. Since the country has enhanced its understanding of its ethnic diversity, the Children's and Adolescents' Code provides for the differential recognition of the civil, political, economic and cultural rights of the various ethnic groups populating the nation. From this standpoint, it is envisaged that comprehensive protection should be applied differentially through a public policy that guides current and future decisions in the interests of these communities, taking their specific features into account.

20. In the same vein, article 13 sets out the rights to which children and adolescents belonging to indigenous peoples and other ethnic groups are entitled: "Children and adolescents of indigenous peoples and other ethnic groups shall enjoy the rights enshrined in the Political Constitution, international human rights instruments and the present Code, without prejudice to the principles governing their cultures and forms of social organization".

B. Indigenous women

21. Article 12 of Law No. 1098 of 2006 defines the gender perspective as "(...) the recognition of social, biological and psychological differences in relations between individuals according to their sex, age, ethnic group and the role they play in the family and the social group".

22. In 2005 the Presidential Advisory Office on Gender Equality designed and coordinated the implementation of three workshops and a central meeting of indigenous women, as a means of generating opportunities for dialogue and drawing attention to the importance of the actions taken by indigenous women at the community level. At each workshop, discussions were held on the specific problems

[4] In Colombia, the technical term "*desvinculado*" ("dissociated") is used to describe children who desert or are rescued by law enforcement from illegal armed groups or are handed over to State authorities by such groups.

[5] Colombia, National Congress of the Republic (8 November 2006), Law No. 1098 of 8 November 2006, in Official Gazette No. 46,446 of 8 November 2006 and 46,453 of 15 November 2006, Bogotá.

of the seven participating entities (Guambiano, Arhuaco, Wiwu, Wayuu, Kankuamo, Huitoto and Ticuna) in terms of the needs and experiences of indigenous women in each indigenous community, based on an analysis of political, economic, ideological and social power. Bulletin No. 8 of the Monitoring Centre on Gender Issues, available on the Advisory Office website, documents this process and provides a regulatory, statistical, academic assessment of the current situation of the country's indigenous women.

23. In addition, between May and November 2007, a study on female genital mutilation/cutting (FGM/C) was carried out among the Embera-Chami of Riseralda. The Colombian Family Welfare Institute, the Office of the Ombudsman, the Ministry of the Interior and Justice and the United Nations Population Fund led a process of developing relations with indigenous authorities, with the result that they were able to verify the existence of this practice. Consequently, a project was designed for the transformation of the practice of FGM/C, based on some ideas put forward by the indigenous people themselves. This document was disseminated to other entities and is ready to be discussed with the communities. The United Nations Population Fund included financing for this project in its 2008 budget.

C. Free, prior and informed consent

24. In its judgement No. C-169 of 2001, the Constitutional Court of Colombia held that genuine, representative and participatory democracy can be said to exist only when the formal and material composition of the system adequately reflects the various forces that make up society and enables all of them to participate in the adoption of decisions that concern them.

25. The Colombian State, following the guidelines set out in International Labour Organization (ILO) Convention No. 169, carries out processes of prior consultation as a prerequisite for the implementation of projects, legislative initiatives or administrative acts that have an impact on areas where indigenous peoples are present. The overall aim of prior consultation is to provide an opportunity for participation in which the ethnic groups located in the area of influence of a project, construction work or activity and the company engaged in it can hold a direct dialogue on the potential effects and impacts of these activities and can plan and reach consensus on agreements for mitigating and/or offsetting them.

26. To this end, the law provides for two types of prior consultation, depending on when such consultation is carried out: one type for projects requiring environmental permitting, such as those for extracting or exploiting natural resources, and another type for projects not requiring environmental permitting, such as seismic exploration in the oil and gas sector.

Procedure with permitting

27. This procedure is set out in article 76 of Law No. 99 of 1993, regulated under Decree No. 1320 of 1998 and based primarily on articles 40, 330 and 332 of the Political Constitution of Colombia. The regulations set out in Decree No. 1320 specifically concern consultation with indigenous and black communities for the exploitation of natural resources within their territory.

Procedure without permitting

28. In these cases, prior consultation is governed essentially by Law No. 21 of 1991 (ILO Convention No. 169) and Decree No. 4331 of 2005, which sets out regulations stipulating the powers of the Office of Ethnic Affairs, including the inter-agency coordination of prior consultation processes.

29. This type of consultation does not have a prescribed procedure as such. Accordingly, through a number of experiences in the country that were led by the Office of Ethnic Affairs, a model for consultation has been developed for projects not requiring environmental permitting.

30. Under the terms of Decree No. 1320 of 1998, among the activities and powers of the Office of Ethnic Affairs of the Ministry of the Interior is the certification of the presence of indigenous communities, the participation of indigenous communities in the elaboration of environmental studies and the actual organization of consultation meetings.

III. Obstacles to the implementation of recommendations of the Permanent Forum at its sixth session

31. Compliance with the Colombian State's international and domestic obligations with respect to indigenous people has been jeopardized by the situation of internal violence that has plagued the country for more than four decades. The actions of illegally constituted armed groups have led to the loss of countless lives among indigenous people and have threatened to destroy a number of reservations. Notwithstanding this complex situation, the coordinated and interlinked efforts of State entities, led by the Ministry of Defence, have succeeded in maintaining and protecting indigenous communities through the actions of law enforcement bodies throughout the national territory.

IV. Factors that have facilitated the implementation of the recommendations of the Permanent Forum at its sixth session

32. The fact that the Colombian legal system recognizes, guarantees and ensures the enforceability of the rights of ethnic groups through the establishment of a pluralistic and diverse State facilitates the implementation of recommendations aimed at protecting and promoting the development of indigenous peoples. According to the Inter-American Development Bank's indigenous legislation index, Colombia ranks first in terms of its legislation on cultural rights and indigenous legislation. Section V below demonstrates the progress made with regard to Colombia's indigenous legislation and the way in which this legislative framework facilitates initiatives seeking to promote the development of indigenous peoples.

V. Specific laws and policies to address indigenous issues

33. Colombian legislation targeting indigenous peoples:

Political Constitution: Fundamental rights

Article 1	Colombia is a social State governed by the rule of law, organized as a participatory and pluralistic Republic with autonomous territorial units, and founded upon respect for human dignity and the primacy of the general interest.
Article 2	The goals of the State are to serve the community, promote prosperity, facilitate the participation of all in the decisions that affect them and in the economic, political, administrative and cultural life of the nation, defend national independence, maintain territorial integrity and ensure peaceful coexistence and the enforcement of a just order. (...)
Article 7	The State recognizes and protects the ethnic and cultural diversity of the Colombian nation.
Article 8	The State and individuals have an obligation to protect the cultural and natural wealth of the nation.
Article 10	Establishes that the languages of ethnic groups shall be official in their territories and that the education provided in those territories shall be bilingual.

Rights, guarantees and duties

Article 13	Establishes that all people are free and equal before the law and condemns all forms of discrimination.
Article 17	Prohibits slavery, servitude and human trafficking in all its forms.
Article 18	Guarantees freedom of conscience.
Article 19	Guarantees freedom of worship.
Article 40	Provides for citizen participation in the exercise and control of political power.
Article 63	Describes the communal lands of ethnic groups and reservations as inalienable, imprescriptible and guaranteed against seizure.
Article 67	Establishes that education has a social function to instruct citizens in respect for human rights, peace, democracy, culture, the environment and other disciplines that constitute a good education.
Article 68	Members of ethnic groups shall be entitled to an education that respects and develops their cultural identity.

Article 70	Culture in its diverse manifestations is the basis of nationality. The State recognizes the equality and dignity of all those coexisting in the country.
Article 72	Establishes that the archaeological heritage and other cultural property making up the national identity belong to the nation and are inalienable, imprescriptible and guaranteed against seizure, and provides that the law shall establish mechanisms for recovering such property when it is held by private individuals and the special rights, if any, of ethnic groups that have settled in territories of archaeological wealth.

Inhabitants and territory

Article 96	Grants Colombian nationality by adoption to members of indigenous peoples sharing border territories, applying the principle of reciprocity in accordance with public treaties.

Legislative branch

Article 171	Establishes a special constituency for the election of senators by indigenous communities.
Article 176	The law establishes special constituencies to ensure the representation of ethnic groups, political minorities and Colombians residing abroad in the House of Representatives.
Article 246	The authorities of the indigenous peoples may exercise judicial functions within their territorial boundaries, in accordance with their own laws and procedures, provided that these are not contrary to the Constitution or laws of the Republic. The law shall establish the forms of coordination between this special jurisdiction and the national judicial system.

Territorial organization

Articles 286 and 287	Departments, districts, municipalities and indigenous territories are classified as territorial entities. Territorial entities shall enjoy autonomy with respect to the management of their interests, within the limits established in the Constitution and the law. They shall have the following rights: to govern themselves under their own authorities, to exercise the functions corresponding to them, to administer resources, to establish taxes and to share in national revenue.
Article 329	The establishment of indigenous territorial entities shall be subject to the provisions of the Territorial Organization Act, while their delimitation shall be decided by the national Government, with the participation of representatives of the indigenous communities, and subject to the opinion of the Territorial Organization Commission.

	Reservations are owned collectively and are inalienable.
Article 330	Establishes that the indigenous territories shall be governed by councils formed and regulated according to the traditions and customs of their communities and lists their functions. Also establishes that the exploitation of natural resources in the indigenous territories shall be effected without impairing the cultural, social and economic integrity of indigenous communities and that the Government shall encourage the participation of representatives of the communities concerned in decisions adopted with regard to such exploitation.

Transitional provisions

Transitional article 56	Until such time as the law referred to in article 329 on indigenous territorial entities is issued, the Government may prescribe the necessary fiscal regulations relating to the functioning of indigenous territories and their coordination with the other territorial entities. The Government shall do this within six months, through regulations having the force of law.

Articles 96, 171, 246, 286 and 287, 329, 330 and 361 involve only indigenous communities; the rest apply to all nationals.

Main legislation relating to indigenous territories

Law No. 160 of 1994	Establishing the National System of Agrarian Reform and Peasant Rural Development. With regard to indigenous issues, this law provides for the conduct of studies on the land needs of indigenous communities in order to ensure that they have enough land to settle and develop properly. This is done both through programmes to establish, rehabilitate and expand indigenous reservations on uncultivated land or on property acquired by the State through the Colombian Institute for Agrarian Reform (INCORA), and through the conversion of indigenous reserves into reservations. Furthermore, INCORA shall clarify the ownership of the legal titles of reservations of colonial origin in order to determine whether or not such titles are still in effect and thereby enable work on the restructuring or expansion of such reservations to begin.
Decree No. 2663 of 1994	Implements chapters X and XIV of Law No. 160 of 1994 in respect of procedures for clarifying the ownership of land and reservations.
Decree No. 2164 of 1995 implementing Law No. 160 of 1994	Decree No. 2164 of 1995 partially implements the Agrarian Act with respect to indigenous issues and the procedures to be followed under each programme. In addition, it provides that, as part of the process of establishing reservations, the Office of Ethnic Affairs shall issue a prior opinion based on socio-

	economic, juridical and land tenure studies carried out by INCORA.
Decree No. 1397 of 1996	Establishing the National Commission for Indigenous Territories.

Main legislation relating to education

Law No. 115 of 1994	General Education Act. Chapter III establishes education for ethnic groups and defines the concept of ethnic education as the education provided to groups or communities that enjoy Colombian nationality but possess their own indigenous culture, language, traditions and laws. Such education shall be tailored to their environment and productive, social and cultural processes and shall respect their beliefs and traditions.
Decree No. 804 of 1995	Regulating education for ethnic groups.

Main legislation relating to the environment

Law No. 99 of 1993	Establishing the Ministry of the Environment, reorganizing the public sector responsible for the management and conservation of the environment and renewable natural resources, establishing the National Environmental System and containing other provisions.
Decree No. 1768 of 1994	Reforming the Regional Autonomous Corporations (protection and management of the environment and natural resources).
Decree No. 1791 of 1996	Establishing the regime for the use of forests. Article 42 refers to support for ethnic groups organized as users' associations that are interested in using forests and/or forestry products and require technical and economic assistance in order to use and transform those resources and market the products efficiently.
Decree No. 1320 of 1998	Regulating prior consultation with indigenous and black communities vis-à-vis the exploitation of natural resources within their territory. The aim of such prior consultation is to assess the potential economic, environmental, social and cultural impact on an indigenous or black community, or on its territory, of the exploration and/or exploitation of natural resources within territory that constitutes a reservation or is inhabited on a regular and permanent basis by such communities, and the proposed measures to protect the integrity of the communities living in such areas.

Resolution No. 128 of 2000	Regulating the participation of representatives of indigenous communities in the Autonomous Corporations Governing Council.
Law No. 685 of 2001	Establishing the Mining Code and containing other provisions. One of the key points of this law is its recognition of mining areas for indigenous people and persons of African descent.

Main legislation relating to human rights

Decree No. 1396 of 1996	Establishing the Indigenous Peoples' Human Rights Commission.

Other legislation

Law No. 48 of 1993	Regulating enlistment and mobilization. Under this law, indigenous people residing in their own territory and preserving their cultural, social and economic integrity are exempt from compulsory military service at all times and do not have to pay the compensatory military tax.
Decree No. 1088 of 1993	Allows indigenous councils and/or traditional indigenous authorities, acting on behalf of their respective indigenous territories, to establish associations in the form of public-law entities of a special character.
Law No. 715 of 2001	Establishing basic laws on resources and competencies and containing other provisions aimed at organizing the provision of education and health services, among others. Article 83. Distribution and administration of resources for indigenous reservations. Resources for indigenous reservations shall be distributed in proportion to the share of the population of the indigenous entity or reservation out of the total indigenous population reported by INCORA to the National Statistics Department. Resources allocated to indigenous reservations shall be administered by the municipality in which the indigenous reservation is located. Should the reservation fall under the jurisdiction of more than one municipality, the resources shall be transferred to each municipality in proportion to the indigenous population found therein. However, such resources shall be managed in accounts that are separate from the accounts of territorial entities and, in order for them to be used, a contract shall be drawn up between the territorial entity and the authorities of the reservation, by 31 December each year, specifying how the resources are to be used the following year. A copy of the said contract shall be sent to the Ministry of the Interior by 20 January.

When the reservations have acquired the status of Indigenous Territorial Entities, their authorities shall receive and administer the transfer directly.

The departmental secretariats of planning, or bodies acting in their stead, shall develop training programmes, advisory services and technical assistance for indigenous reservations and municipal authorities, so as to ensure that resources are programmed and used properly.

Law No. 756 of 2002

Royalties Distribution Act.

Article 11 specifies the royalties payable to indigenous reservations that are within five kilometres of hydrocarbon exploitation wells.

Main legislation relating to health

Decree No. 1811 of 1990

Partially implementing Law No. 10 of 1990 in respect of the provision of health services for indigenous communities.

Article 1. The provision of health services for the country's indigenous communities shall henceforth be subject to the provisions of the present Decree.

Article 2. Any programmes and, in general, any health-related actions that are planned for indigenous communities shall first be agreed with those communities and approved by the respective councils or authorities that govern them.

Article 3. Those responsible for formulating and implementing health programmes in indigenous communities shall consult and draw on the research, analyses and studies carried out on the subject and define methodologies aimed at increasing and building on experience in this field.

Article 5.

(e) Indigenous communities that are too small to justify the creation of a post of health advocate and that, owing to particular cultural or linguistic reasons or to distance, are unable to use the services of the health advocate closest to them may ask the local or regional departments of health to train one of their members as a volunteer, whose work shall be governed by the same rules governing that of health advocates under this Decree. The local or regional departments of health may not use the provisions of this subparagraph as a pretext for avoiding either the due remuneration of indigenous health advocates or the responsibility to create health advocate posts whenever circumstances and needs so require.

Law No. 100 of 1993	Health care for the poorest and most vulnerable population shall be subsidized through the General Social Security System for Health. Within this group, persons such as indigenous people shall be given particular importance.
Decree No. 0757 of 1995	Partially regulating matters relating to the Solidarity and Guarantee Fund.
Decree No. 2357 of 1995	Regulating certain aspects of the subsidized regime of the Social Security System for Health. Article 18. Co-payment. This is the sum that the user shall pay to health service providers directly in the following cases: (1) There shall be no co-payment for the poor or indigenous populations.
Decree No. 330 of 2001	Establishing rules for the establishment and functioning of health promotion organizations, composed of indigenous councils and/or traditional indigenous authorities.
Law No. 691 of 2001	Regulating the participation of ethnic groups in the General Social Security System for Health.
Agreement No. 0244 of 2003 of the National Council on Social Security for Health (CNSSS)	Defining the nature and conditions of operation of the subsidized regime of the General Social Security System for Health and containing other provisions.

Other provisions

Law No. 270 of 1996	Statutory Law on the Administration of Justice. Incorporates the authorities of indigenous peoples within the structure of the judicial branch and recognizes the traditions and customs of indigenous peoples (legislative systems) as part of national legislation. Particular attention should be drawn to the following articles of this law, which relate to indigenous issues: Article 11. The judicial branch shall be composed of: 1. The entities belonging to the various jurisdictions (...) (e) Jurisdiction of the Indigenous Communities: Authorities of the indigenous territories. Article 12. Exercise of the jurisdictional function by the judicial branch. The jurisdictional function shall be exercised as a rightful, usual and permanent function of the bodies and individuals with the legal capacity to do so, as stipulated in the Political Constitution and in the present Statutory Law.

	This function shall be exercised by the Constitutional Court, the Supreme Council of the Judiciary, the administrative courts, special jurisdictions such as the special military criminal jurisdiction, the special indigenous jurisdiction and justices of the peace, and the ordinary courts, which shall deal with any matters not specifically attributed to another court by the Constitution or the law.
International conventions	
Law No. 21 of 1991, ratifying ILO Convention No. 169 (1989)	Concerning indigenous and tribal peoples.
Law No. 43 of 1993	Establishing rules relating to nationality. Article 1. In accordance with article 96 of the Political Constitution, the following are Colombian nationals: 2. By adoption: [...] (c) Members of indigenous peoples sharing border territories, applying the principle of reciprocity in accordance with any public treaties concluded or amended for this purpose.
Law No. 145 of 1994	Adopting the Agreement Establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, signed in Madrid on 24 July 1992.
Law No. 191 of 1995	Containing provisions on border areas. Article 8. The State shall protect the traditional knowledge associated with the genetic resources developed by local and indigenous communities in border areas. Furthermore, the use of such resources shall be subject to the prior consent of such communities and shall include equitable compensation in the form of benefits that strengthen the indigenous peoples.
Decision No. 391 of 1996	Commission of the Cartagena Agreement — Common regime on access to genetic resources. The aims and objectives include establishing conditions for a fair and equitable share of the benefits arising from access, and establishing the basis for the recognition and valuation of genetic resources and their derivatives, as well as of their intangible components, particularly in the case of local, Afro-American or indigenous communities.
International Convention on the Elimination of All Forms of Racial Discrimination	Seeks to eliminate discrimination on the grounds of race.

VI. National institutions responsible for indigenous issues

34. The Colombian State has set up ethnic departments in various entities and has a strong Constitutional Court responsible for monitoring, preventing and punishing discriminatory practices. To that end, four bodies have been given the specific task of preventing all forms of discrimination in the country. The first is the Ministry of Culture, one of whose main objectives is to develop national traditions and culture, combat prejudice and promote inter-ethnic and intracultural understanding, tolerance and friendship among the various groups found in the country.

35. The other three institutions, which are the Office of Ethnic Affairs of the Ministry of the Interior and Justice, the Office of the Procurator-General and the Office of the Ombudsman, have a more specific role in preventing discrimination through the development and implementation of affirmative actions. These institutions act as monitoring bodies.

Ministry of Culture

36. Under Law No. 397 of 1997 (General Culture Act), the Ministry is responsible for developing, coordinating, implementing and monitoring State policy in the area of culture in accordance with development plans and programmes.

37. The Ministry of Culture also chairs the National Council for Culture, which is the supreme body responsible for representing cultural interests. Both members of indigenous communities and members of Afro-descendent communities have obligatory seats on the Council.

38. As the lead agency for central policy and as the body chairing the National Council for Culture, the Ministry of Culture has duties that include safeguarding and protecting the cultural expressions of Colombians and promoting constructive intercultural dialogue that shows respect for difference. It thus plays a leading role in avoiding and preventing discriminatory practices through plans and programmes that demonstrate, extol and promote the country's cultural diversity. Its most important action lines are as follows:

(a) National "Culture and Social Harmony" Plan;

(b) "Señal Colombia" public television channel;

(c) National "Music for Social Harmony" Plan;

(d) Programme for the Protection of National Heritage and Memory;

(e) National Programme of Concerted Action;

(f) National Stimulus Programme;

(g) National Reading and Libraries Plan;

(h) Ethnoculture and Development Programme.

Ministry of the Interior and Justice

39. In Colombia, ethnic policy is coordinated by the Office of Ethnic Affairs, which is a unit within the Ministry of the Interior and Justice. It has two sub-units, one for indigenous affairs and one for the Afro-Colombian, Raizal and Rom communities. All the institutions, entities and units of the executive branch work

with issues and programmes related to ethnic groups. Ethnic policy is not centralized and each territorial entity with an ethnic presence (governor's office, municipality) is responsible for coordinating and implementing programmes in this area.

40. In accordance with article 16 of Decree No. 200 of 2003, the Office of Ethnic Affairs of the Ministry of the Interior and Justice is responsible for carrying out the following activities:

(a) Conducting and publishing studies and research on ethnic groups in coordination with the Office of Legal Codification and entities and organizations working in the area with a view to assessing the potential social, cultural and environmental impact of the various activities on these communities, in accordance with the law;

(b) Promoting the resolution of conflicts based on collective ownership, usufruct and exploitation of land or natural resources and use of traditional production practices in accordance with legal provisions in this area;

(c) Coordinating among institutions the holding of consultations with ethnic groups on projects that might affect them, in accordance with the law;

(d) Keeping a record of indigenous traditional authorities recognized by the respective community, of associations of indigenous authorities, community councils and grass-roots organizations of black communities;

(e) Providing support to the Presidential Advisory Office on Ethnic Diversity for training programmes on ethnic and cultural diversity, public management and areas of interest related to ethnic groups;

(f) Responding to requests and consultations related to matters within its competence;

(g) Supporting the activities of the Ministry's studies centre;

(h) Other duties related to the nature of its work.

41. In the exercise of these duties, the Office of Ethnic Affairs has established the following objectives:

(a) To complete the core catalogue of rights of indigenous and Afro-Colombian peoples and to make headway with legal developments for the Rom and Raizal groups;

(b) To strengthen opportunities for consensus-building and participatory mechanisms of ethnic groups;

(c) To implement the first experiences of the indigenous territorial entities in accordance with the Land-Use Act;

(d) To formulate the specific component on the protection of the individual and collective human rights of ethnic groups within the framework of national human rights policy;

(e) To implement a capacity-building programme for the authorities and governments of ethnic groups, and to promote and support the formulation of a long-term development plan for Afro-Colombian communities;

(f) To assist with completing the process of titling reservations for indigenous communities and collective territories for black communities of the Pacific;

(g) To implement a training programme for public officials on the rights of ethnic groups;

(h) To support departmental territorial entities in their efforts to assume functions and make administrative adjustments to address the needs of ethnic groups.

Office of the Deputy Procurator for Prevention in the Field of Human Rights and Ethnic Affairs

42. In accordance with Decree No. 262 of 2000, the Office of the Deputy Procurator has the following responsibilities in protecting and defending the human rights of ethnic minorities:

(a) To intervene when necessary with the public authorities in accordance with its preventative and oversight role in order to defend the rights of ethnic minorities (article 24);

(b) To ensure compliance with rules and judicial decisions related to the protection of the rights of ethnic minorities and their traditional territories (article 26);

(c) To participate when necessary in administrative and police proceedings in matters of interest to members of ethnic minorities in order to defend the legal order, fundamental rights and guarantees, and the public heritage (article 26);

(d) To initiate collective legal actions, protection and enforcement proceedings and other legal actions to guarantee the defence of the legal order and of fundamental, social, economic, cultural, collective and environmental guarantees and rights, and the rights of ethnic minorities (article 26);

(e) To intervene with the administrative authorities and police and participate in the relevant proceedings to defend the rights of ethnic minorities, workers or pensioners (article 27);

(f) To participate in the civil and agrarian proceedings of the Civil-Agrarian Chamber of the Supreme Court and to intervene when necessary to defend the rights of ethnic minorities (article 31); to participate when necessary in the family proceedings of the Civil-Agrarian Chamber of the Supreme Court in order to defend the rights of ethnic minorities (article 32); to participate when necessary in the labour proceedings of the Labour Chamber of the Supreme Court in order to defend the rights of ethnic minorities (article 33).

Office of the Deputy Ombudsman for Indigenous and Ethnic Minority Affairs

43. The Office of the Deputy Ombudsman for Indigenous and Ethnic Minority Affairs is a division of the Office of the Ombudsman, which is part of the Office of the Attorney-General and is responsible for ensuring the promotion, exercise and dissemination of human rights in accordance with the provisions of articles 282 and 283 of the Political Constitution. In the exercise of its mandate, it established the Office of the Deputy Ombudsman for Indigenous and Ethnic Minority Affairs as a

mechanism for promoting the exercise of the human rights of indigenous peoples and other ethnic minorities and for preventing violations of their rights. Its specific functions are as follows:

(a) To evaluate continuously the human rights situation in the country with respect to indigenous peoples and ethnic minorities;

(b) To advise the Ombudsman on issues related to ethnic minorities and to keep the Ombudsman informed about the status of legislative proposals in this area;

(c) To establish ongoing dialogue with governmental and non-governmental organizations involved in the protection and defence of the human rights of ethnic minorities.

44. In addition to the aforementioned entities, important institutions that contribute to the prevention of discrimination include the Colombian Institute of Anthropology and History, the Caro y Cuervo Institute and the General National Archive and National Library of Colombia. Similarly, the majority of national and local entities have taken actions that recognize the importance of the ethnic variable and have made efforts to quantify, value and adequately protect it.

45. Finally, the Presidential Advisory Office on Ethnic Diversity is due to be strengthened in the coming years. The Office was established at the policy level within the State and there are plans to make it operational.

VII. Regular capacity-building programmes on indigenous issues for national civil servants

46. The School of Public Administration (ESAP) is the specialized Government entity that provides training to civil servants. Using public and international cooperation funds, this entity offers training programmes that enable civil servants to better perform their duties. It also promotes academic activities aimed at guaranteeing the democratization and social control of the administration. In 2003, ESAP developed a certificate programme on indigenous legislation in six areas of the country, including the Departments of La Guajira, Arauca and Huila. The programme was aimed at members of indigenous communities and civil servants.

VIII. Information or suggestions on the special theme of the seventh session of the Permanent Forum: Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges

47. With respect to the special theme, the Ministry of Foreign Affairs, the Ministry of Trade, the Ministry of the Environment and the Ministry of the Interior and Justice, together with the Humboldt Institute, have participated in discussions within the framework of the Convention on Biological Diversity on the themes of traditional knowledge (article 8 (j)) and access and benefit sharing. Colombia sent a delegation comprising members of the aforementioned ministries to the most recent meeting of the Working Group on article 8 (j) held in Montreal, and will attend the meeting on access and benefit sharing in Geneva. **Colombia respectfully**

recommends that all discussions on traditional knowledge in relation to biodiversity resources, conservation and access to biodiversity resources take into account the progress made within the framework of the Convention in order to avoid parallel discussions and duplication of efforts on the same themes.

48. In addition, the Ministry of the Environment, Housing and Territorial Development and the Office of Ethnic Affairs have been working with indigenous organizations and peoples on the development of consultation mechanisms for natural resources exploration and exploitation. During 2005, the National Hydrocarbon Agency and the National Indigenous Organization of Colombia (ONIC) jointly implemented a project on indigenous peoples' and organizations' view of petroleum policies in Colombia. In 2006, the Agency was provided with resources to carry out other activities with regional and grass-roots organizations aimed at establishing consensus-building to allow for enhanced consultation processes.

49. The 2006-2010 national development plan states that it is essential to support the development of projects implemented by indigenous peoples for the conservation, restoration and sustainable use of natural resources and to strengthen the environmental governance capacity of indigenous authorities by providing training and financing projects.

50. At the same time, efforts are being made to research and implement low-cost rainwater harvesting methods and the use of other natural sources of water in scattered and remote communities through the Regional Autonomous Corporations and other relevant entities.

IX. Information on the Government's promotion of the United Nations Declaration on the Rights of Indigenous Peoples

51. The Colombian Constitution and body of law, as well as the international instruments ratified by Colombia, are consistent with most of the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. However, while the Declaration is not a legally binding norm for the State and in no way constitutes the establishment of conventional or customary provisions that are binding for Colombia, some aspects of the Declaration were found to be in direct contradiction with the Colombian internal legal system, which obliged the Colombian State to abstain in the voting on this text.

52. For example, article 30 of the Declaration provides that effective consultations must be held with indigenous communities prior to using their lands or territories for military activities. Under the mandate set out in Colombia's Constitution, the State security forces must be present throughout the national territory to provide and guarantee to all inhabitants protection of and respect for their lives, honour and property, both individual and collective. Protecting the rights and integrity of indigenous communities depends to a great extent on security in their territories. In that connection, instructions have been issued to the security forces to fulfil their obligation to protect the rights of such communities. Nevertheless, this provision of the Declaration contradicts the principle of the necessity and effectiveness of the

State security forces, preventing the fulfilment of their institutional mission. This is not acceptable to Colombia.

53. Moreover, articles 19 and 32 of the Declaration refer to consultations to obtain the free, prior and informed consent of indigenous communities before approving projects that may affect their lands or territories and other resources. In particular, the development, utilization or exploitation of mineral, water or other resources is mentioned.

54. In that regard, Colombia's Constitutional Court has reiterated in its jurisprudence that there must be compatibility between the exploitation of natural resources and the protection of the social, cultural and economic integrity of indigenous communities. This Court has indicated that, while the Government is obligated to provide effective and reasonable mechanisms for participation, it is not obligated to reach an agreement or consensus. Indigenous peoples' right to consultation is not absolute. Both the Constitutional Court and the ILO Committee of Experts have established that prior consultation does not imply a right to veto State decisions, but that it is a suitable mechanism for enabling indigenous and tribal peoples to exercise the right to express themselves and to influence the decision-making process.

55. Other articles of the Declaration state that indigenous peoples have the right to own, develop and control the territories that they possess by reason of traditional ownership, as well as the underlying natural resources. Other related rights, such as protection against the dispossession of such resources, are also recognized. It is important to stress that many States, including Colombia, constitutionally stipulate that the subsoil and non-renewable natural resources are the property of the State in order to protect and guarantee their public use for the benefit of the entire nation. Therefore, accepting provisions such as those cited above would run counter to the internal legal order, which is based on the national interest.

56. However, the decision to abstain in the voting on this text because of the legal incompatibilities identified does not change the State's firm national commitment to implementing its constitutional provisions, internal norms and international obligations aimed at preserving the Colombian nation's multi-ethnic nature and protecting its ethnic and cultural diversity.

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Seventh session
New York, 21 April-2 May 2008
Item 4 of the provisional agenda*
Implementation of the recommendations on the six mandated areas of the Permanent Forum and on the Millennium Development Goals

Information received from Governments

Russian Federation**

Summary

The present report contains the information on International Workshop on Perspectives of Relationships between Indigenous Peoples and Industrial Companies, held in Salekhard, Russian Federation, from 2 and 3 July 2007. The Workshop was co-organized by the Administration of the Yamal-Nenets Autonomous Okrug, the Russian Association of Indigenous Peoples of the North, Siberia and the Far East and the secretariat of the Permanent Forum on Indigenous Issues, with support from the Public Chamber of the Russian Federation.

* E/C.19/2008/1.

** The submission of the present document was delayed in order to include the most recent information.

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I. Introduction

1. The International Workshop on Perspectives of Relationships between Indigenous Peoples and Industrial Companies was held in Salekhard, Yamal-Nenets Autonomous Okrug, Russian Federation, on 2 and 3 July 2007.

2. The Workshop was co-organized by the Administration of the Yamal-Nenets Autonomous Okrug, the Russian Association of Indigenous Peoples of the North, Siberia and the Far East (RAIPON) and the secretariat of the Permanent Forum on Indigenous Issues, with support from the Public Chamber of the Russian Federation.

3. Since its inception, the Permanent Forum has called on all actors to assist in the implementation of its public policy recommendations, and in this sense, has seen the potential for the private sector to contribute to the improvement of the situation of indigenous peoples. The meeting was held in this spirit and benefited from the participation of members of the Permanent Forum, indigenous experts from around the world, representatives of the Government of the Russian Federation and of the local government of the Yamal-Nenets Autonomous Okrug, representatives of civil society organizations and Russian business leaders.

4. Members of the Permanent Forum on Indigenous Issues and the other participants of the Workshop expressed their appreciation to the government of the Autonomous Region of Yamal-Nenets for sponsoring and hosting the meeting; to RAIPON and the secretariat of the Permanent Forum for co-organizing it; and to the Public Chamber of the Russian Federation and the Government of the Russian Federation for their generous support and cooperation.

5. Participants paid tribute to the Nenets, Khanti and Selkup indigenous peoples of the area and thanked them for their traditional welcome.

II. Adoption of the agenda, election of officers and attendance

6. The agenda was adopted (see annex I) and Sergey Kharychi, President of RAIPON and Chairman of the State Duma of Yamal-Nenets Autonomous Okrug, and Pavel Sulyandziga, Vice-President of RAIPON and member of the Permanent Forum on Indigenous Issues, were elected as chairpersons. Michael Dodson, a member and rapporteur of the Permanent Forum was elected rapporteur for the Workshop.

7. There were about 80 participants at the Workshop, including 13 members of the Permanent Forum; the Special Rapporteur of the Human Rights Council on the situation of human rights and fundamental freedoms of indigenous people; indigenous experts from the Pacific region, Central and South America, Africa, the Arctic, North America and the Russian Federation; representatives of seven companies operating in the Russian Federation; representatives of the government of the Yamal-Nenets Autonomous Okrug, the Government of the Russian Federation and the Public Chamber of the Russian Federation; and representatives of national and international non-governmental organizations. The list of participants is contained in annex II.

8. Welcome speeches were given by Sergey Kharychi, President of RAIPON and Chairman of the State Duma of Yamal-Nenets Autonomous Okrug; Victor Kazarin, Vice-Governor of the Yamal-Nenets Autonomous Okrug; Lidia Dyachenko, Deputy

Director of the Interracial Relations Department of the Ministry of Regional Development of the Russian Federation; Vyacheslav Nikonov, member of the Public Chamber of the Russian Federation; Aqqaluk Lynge, Vice-Chairperson of the Permanent Forum; and the Chief of the Secretariat of the Permanent Forum.

III. Objectives of the Workshop

9. The Workshop sought to address some of the fundamental questions regarding the relationship between indigenous peoples and industrial companies:

- How can the interests of States and the private sector be aligned with the interests of indigenous peoples?
- What are the norms, laws and mechanisms needed to protect and respect the human rights of indigenous peoples, while guaranteeing the rights of States to develop the natural resources within their borders and promote a favourable environment for a vibrant private sector?
- What are some of the good examples, promising practices and lessons learned?
- Are current national and international legal frameworks and standards adequate?
- How are these laws and standards enforced?
- How can costs and benefits be shared?
- What is the role of international financial institutions in this context?

10. These questions were addressed through an analysis of the international standards and policies on indigenous peoples rights and corporate social responsibility; an exchange of experiences that illustrated the relationship between indigenous peoples and industrial companies in the Pacific region, Asia, Central and South America, the Arctic, North America and the Russian Federation; and an examination of good examples and promising practices of cooperation between indigenous peoples and industrial corporations.

11. The documents provided at the Workshop are posted on the website of the secretariat of the Permanent Forum on Indigenous Issues: http://www.un.org/esa/socdev/unpfii/.

IV. Conclusions and recommendations

12. The Workshop took note of the fact that a number of international instruments of the United Nations system, as well as recent United Nations and other initiatives, outline standards and policies regarding indigenous peoples and industrial companies, including the following:

(a) The Universal Declaration of Human Rights;

(b) The International Covenant on Economic, Social and Cultural Rights;

(c) The International Covenant on Civil and Political Rights;

(d) The International Convention on the Elimination of All Forms of Racial Discrimination;

(e) International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries;

(f) The United Nations Declaration on the Rights of Indigenous Peoples, as adopted by the Human Rights Council on 29 June 2006;

(g) The Convention on Biological Diversity, especially articles 8 (j) on access and benefit-sharing, and 10 (c) on customary sustainable use and related provisions;

(h) The United Nations Global Compact and its 10 principles (see para. 28 of the present report);

(i) The case law of the Inter-American Court of Human Rights;

(j) The case laws of the Human Rights Committee and of the Committee on the Elimination of Racial Discrimination;

(k) The report of the 2001 Workshop on Indigenous Peoples, Private Sector Natural Resource, Energy and Mining Companies and Human Rights (see E/CN.4/Sub.2/AC.4/2002/3);

(l) The 2003 report of the Special Rapporteur of the Human Rights Council on the situation of human rights and fundamental freedoms of indigenous people, focusing on the impact of large-scale or major development projects on the human rights and fundamental freedoms of indigenous communities (see E/CN.4/2003/90);

(m) The report of the 2005 Permanent Forum International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples (E/C.19/2005/3), providing the elements of a common understanding of the principle;

(n) The report of the 2006 international workshop on partnerships with indigenous peoples (E/C.19/2006/4/Add.2), providing the elements of effective and efficient partnerships;

(o) The 2007 report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35; see also E/CN.4/2006/97);

(p) The International Finance Corporation policy on social and environmental sustainability and performance standards on social and environmental sustainability;

(q) The Subcommission on the Promotion and Protection of Human Rights: norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (E/CN.4/Sub.2/2003/12/Rev.2).

13. The Workshop also heard presentations regarding regional experiences on the subject in Africa, the Arctic, Asia, Central and South America, North America and the Pacific region, as well as in the Russian Federation, including positive impacts

and the many challenges faced by indigenous peoples in connection with industrial companies.

14. The Workshop concluded that despite modest progress made in terms of awareness among States and industrial companies of the complex and serious problems faced by indigenous peoples as a result of their interaction with these companies, there was still a long way to go to strengthen the primary responsibility and accountability of States, to establish corporate social responsibility and genuine partnerships dealing with problems and benefits-sharing, and to build capacities among all actors to work together for positive results. In this context, it would be highly desirable to develop meaningful dialogue among all concerned to prevent conflict situations and to establish conflict resolution mechanisms when and where necessary.

15. Of particular concern were the violations of human rights faced by indigenous peoples, especially as a result of mega-projects, including mining, oil, gas and timber extraction and other extractive industries, monoculture plantations and dams and their impact, including environmental damage on their traditional lands, territories and resources, and on their subsistence, traditional knowledge and livelihoods, often resulting in conflict and forced displacement, further discrimination and marginalization, increased poverty and decline in health and well-being. Other negative impacts included the detrimental health effects of toxic dumping.

16. Positive impacts of relations between indigenous peoples and industrial companies, as presented by participants, included the creation of employment opportunities among indigenous people, the provision of health facilities, residential buildings, means of transportation and of communication, including for remote communities, and support for the cultural activities of those communities. Positive practices included agreements between companies, national and regional Governments and indigenous peoples, provision of an adequate framework for the conclusion of agreements, extensive heritage surveys, negotiated outcomes for traditional landowners, creation of professional centres for capacity-building and training, compensation, reforestation, royalty payments to indigenous peoples, issuance by indigenous communities of policies intended to regulate their relationships with industrial companies and the establishment of project management structures, some of which supported the prominent role of traditional ecological knowledge by creating board positions and business opportunities for indigenous environmental monitors, to ensure environmental protection, with the participation of indigenous peoples. The use of ethical standards for companies by indigenous advocates had also proved to be successful in some cases due to the impact on a company's public image.

17. Gaps identified by the Workshop include:

(a) Lack of comprehensive international standards covering the relations between indigenous peoples and industrial companies. Standards are fragmented in written or customary international law and practice and require a systematic approach so that they can serve as a practical guide to companies, States, indigenous communities and civil society at large;

(b) Lack of proper regulations and policies designed by States and other authorities;

(c) Lack of establishment of appropriate independent conflict resolution mechanisms nationally and internationally, to mediate and resolve differences between indigenous peoples and companies;

(d) Lack of adequate awareness by industrial companies and States of the responsibility of such companies in their relations with indigenous peoples; lack of capacity within companies to deal with indigenous issues;

(e) Lack of environmental and risk management plans and rehabilitation of land and environment after mining and other extractive activities;

(f) Lack of specific policies by companies to deal with indigenous peoples;

(g) Lack of opportunities for indigenous peoples to participate fully and effectively in the planning, decision-making, implementation and monitoring of projects that affect their lives;

(h) Lack of benefit-sharing, a major challenge in the relationship between indigenous peoples and industrial companies;

(i) The regulatory role of States;

(j) Inconsistencies between laws at the national level regulating access to natural resources and laws regarding indigenous peoples and their rights to land;

(k) Lack of or inadequate implementation by States of national and international laws and standards;

(l) The overreliance, in some cases, by some States, on industrial companies to provide community infrastructure, basic services and citizenship entitlements in substitution for States' responsibility.

18. It is important to encourage, as previously recommended (see E/CN.4/Sub.2/AC.4/2002/3), implementation and compliance with the United Nations Declaration on the Rights of Indigenous Peoples, as adopted by the Human Rights Council on 29 June 2006. All three parties, companies, States and indigenous peoples, should consider as a framework for partnerships in dignity articles 19, 20, 29 and 32 of the Declaration, which are devoted to the right to self-determination and, where relevant, to treaties and agreements.

19. Before exploiting lands and resources which affect the living conditions of indigenous peoples, companies must obtain the free, prior and informed consent (see E/C.19/2005/3) of the indigenous peoples concerned. Indigenous peoples have the right to participate equally in negotiations through their representative institutions in order to share benefits. Where necessary, they should have access to legal representation to prevent their rights from being infringed upon by the illegal conduct of companies.

20. The human rights of indigenous peoples, communities and individuals must be considered of the utmost priority when development projects are undertaken in indigenous areas. Governments should consider the human rights of indigenous peoples as a crucial factor when considering the objectives, costs and benefits of any development project in such areas, particularly when major private and/or public investments are intended. To the extent that major development projects impinge upon traditional indigenous territories or ancestral domains, indigenous land and property rights must be considered as human rights to be protected at all

times, whether they are recognized legally or not. In addition, any development projects or long-term strategy affecting indigenous areas must involve the indigenous communities as stakeholders, beneficiaries and full participants in the design, execution and evaluation stages.

21. The potential long-term economic, social and cultural effects of major development projects on the livelihood, identity, social organization and well-being of indigenous communities must be included in the assessment of their expected outcomes and must be closely monitored on an ongoing basis. Such effects would include health and nutrition status, migration and resettlement, changes in economic activities and standards of living, as well as cultural transformations and socio-psychological conditions, with special attention given to women and children.

22. All potential investors must be made aware that the human rights of indigenous peoples should be a prime objective when investment decisions in development projects are made that are expected to affect indigenous peoples directly or indirectly.

23. In the process of resources exploitation and production, companies should respect local indigenous cultures, traditions and customs, and respect and learn from the successful experience of indigenous peoples in environmental protection, sustainable development and co-management. At the same time, they should respect and protect the intellectual property of indigenous peoples, including in cultural heritage, traditional knowledge and skill, literature and art, and refrain from using it illegally.

24. When employing indigenous workers, companies have to ensure that those workers enjoy the relevant rights enshrined in international and domestic labour laws, including reasonable salaries and treatment, labour protection and equal opportunities, ensure that they are not discriminated against because of their indigenous status and make efforts to promote their right to participate in corporate management. Indigenous workers should get timely and reasonable remedy and compensation when their rights are violated. Special attention should be paid to the rights of indigenous women workers.

25. As the main body dealing with indigenous issues in the United Nations system, the Permanent Forum is mandated to assist indigenous peoples in realizing the above-mentioned goals. The Permanent Forum may pursue its mandate in the following ways:

(a) By reminding States that they bear the primary responsibility to supervise and regulate the activities of industrial companies within their territories. In this regard, the Forum should strengthen its cooperation with the Human Rights Council and the human rights treaty bodies and call upon States to fulfil their obligations under international human rights treaties, improve domestic legislation, establish effective administrative and judicial procedures, supervise domestic and international companies in obeying relevant laws, bring human rights violators to justice and offer assistance and remedies to victims;

(b) By enhancing the corporate social responsibility awareness of industrial companies. This can be achieved by conducting seminars, training programmes and field visits. Such activities can enhance the companies awareness of indigenous issues and encourage them to promote policies conducive to the enjoyment of and respect for the human rights of indigenous peoples;

(c) By promoting the capacity-building of indigenous peoples and their communities, the Permanent Forum should provide expert advisory and technical assistance to strengthen the capacity of indigenous peoples to monitor corporate behaviour and thereby assist indigenous employees in safeguarding their legal rights and interests. Such an approach would enable indigenous peoples to seek redress in situations where industrial companies have violated their rights;

(d) By promoting good examples, promising practices and monitoring;

It is recommended that the Permanent Forum appoint a special rapporteur on private sector projects affecting indigenous peoples in all regions of the world, including to:

(i) Review existing frameworks and practices of consultation, benefit-sharing and dispute resolution between indigenous peoples and industrial companies;

(ii) Review indigenous policy papers and elements of good agreements with industrial companies;

(iii) Distil best examples and promising practices and solutions into a practical guideline, including for good neighbour agreements between industrial companies and indigenous peoples.

26. Despite the existing initiatives of corporate social responsibility, major challenges remain, notably on substantive policies, which fall short of meeting international human rights standards. Furthermore, implementation and enforcement mechanisms are either absent or fail to offer sufficient guarantees and remedies. Indigenous peoples must not only be considered as stakeholders but also as rights holders. In this regard, States, financial institutions and development agencies have a leading role to play in ensuring corporate accountability and respect for the promotion and protection of the human rights of indigenous peoples.

27. The access provided to industrial companies for conducting mining operations on indigenous peoples lands, when granted as a result of negotiation processes that respect and strictly adhere to the principle of free, prior and informed consent, is a privilege, involving extremely risky industrial practices in some of the last remaining and ecologically sensitive environments.

28. Regarding the United Nations Global Compact, which seeks to advance responsible corporate citizenship, the Workshop emphasized the need for companies to implement the 10 principles of the Global Compact in the areas of human rights, labour, the environment and anti-corruption (for further details on the Global Compact, see http://www.unglobalcompact.org), as well as for those principles to be analysed, including in terms of their meaning for indigenous peoples. Accordingly, the Workshop recommends that:

(a) Companies and civil society organizations, currently participating in the Global Compact initiative, implement, promote and monitor the 10 principles in terms of the realities faced by indigenous peoples;

(b) Companies and civil society actors, active in the area of indigenous issues, including indigenous peoples organizations, consider joining the Global Compact and promoting and implementing its 10 principles;

(c) The Permanent Forum consider discussing the issues of the Global Compact under the agenda item on economic and social development;

(d) The Permanent Forum, in cooperation with the office of the Global Compact and other relevant United Nations offices, prepare an analysis of the 10 principles of the Global Compact as they apply to indigenous peoples;

(e) The Permanent Forum and its secretariat take initiatives to join the Global Compact network as part of the seven United Nations offices already involved;

(f) The office of the Global Compact establish a task force in collaboration with the Permanent Forum to explore ways and means to sensitize the corporate world on the rights, specific concerns and needs of indigenous peoples in negotiating and establishing agreements with corporate businesses, including mining and extractive industries.

29. The Workshop urges international financial institutions to:

(a) Adopt a rights-based approach[1] in all project financing that has an impact on indigenous peoples;

(b) Adopt the principle of free, prior and informed consent of indigenous peoples in all project financing;

(c) Require independent monitoring of participatory processes, and negotiations and verification of the successful outcomes of such processes in all projects financed by international financial institutions; to assess impacts on indigenous peoples;

(d) Require the active participation of indigenous peoples in the development and implementation of social and environmental assessment for all projects;

(e) Where there is free, prior and informed consent, require contractual agreements for equitable benefit-sharing, with active participation of indigenous peoples in all projects financed by international financial institutions on indigenous peoples lands and territories.

30. The Workshop welcomes the 2007 report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises and notes its high degree of relevance for indigenous peoples human rights (A/HRC/4/35). It reiterates in particular the following conclusions and recommendations of the Special Representative to:

(a) Remind States of their duty to protect the human rights of indigenous peoples, especially with regard to preventing and punishing abuses by non-State actors, including industrial companies;

(b) Reiterate the need for standards and accountability mechanisms, including human rights impact assessments, against which to evaluate the impact of private sector initiatives on indigenous communities;

(c) Recognize that the challenge of aligning the interests of indigenous peoples, States and the private sector requires concerted measures and actions from all parties.

[1] See "The human rights based approach to development cooperation: towards a common understanding among United Nations agencies", available from http://www.undp.org/governance/docs/HR_Guides_CommonUnderstanding.pdf.

31. Noting the recommendation of the Workshop on Indigenous Peoples, Private Sector Natural Resource, Energy and Mining Companies and Human Rights (see E/CN.4/Sub.2/AC.4/2002/3, para. 7 (b)) to call for a second workshop, which was supported by the Special Rapporteur of the Human Rights Council on the human rights and fundamental freedoms of indigenous people in his report (see E/CN.4/2003/90, para. 79) and by the workshop on the good practices of partnerships (see E/C.19/2006/4/Add.2), the Workshop on Perspectives between Indigenous Peoples and Industrial Companies adopts and reiterates the recommendation that a second workshop be held to elaborate a draft framework for dialogue and implementation on consultation, benefit-sharing and dispute resolution in private sector projects affecting indigenous peoples and invites the collaboration of the Office of the United Nations High Commissioner for Human Rights.

32. The Workshop recommends that the Batani Fund consider rendering assistance in establishing cooperation between indigenous communities and industrial companies towards respecting and promoting the enjoyment of human rights by indigenous peoples by conducting seminars and round tables to discuss and create effective forms of mutually profitable collaborations in the Russian Federation.

33. The Workshop notes the example of the Assembly of First Nations (Canada) in developing an economic blueprint to set standards for collaboration between indigenous peoples and the corporate world from an indigenous perspective and recommends that the information be included in the documents of the Workshop for dissemination (see para. 11 above for website address).

34. The Workshop notes the launching of the indigenous environmental co-management project of the Global Environment Facility of the United Nations Environment Programme, called NPA-Arctic, and recommends that information about the project be widely disseminated in order to promote its success.

35. The Workshop reiterates the recommendations of the 2001 Workshop on Indigenous Peoples, Private Sector Natural Resource, Energy and Mining Companies and Human Rights, in particular, paragraphs 7 (b)-(d) and 10. It also calls on indigenous peoples organizations to increase efforts in seeking, producing and providing information, including at the grass-roots level, to raise awareness on global problems and trends among indigenous peoples, and thereby strengthen the effectiveness of the principle of free, prior and informed consent.

36. The Workshop also reiterates the call for the establishment of databanks and networking on a global scale of agreements and negotiation processes between indigenous peoples and industrial companies.

Annex I

Organization of work

Monday, 2 July

9.30-10 a.m.	Registration
10-10.45 a.m.	**Item 1: Opening ceremony, welcome speeches, election of officers and adoption of the agenda** • Sergey Kharychi, President of the Russian Association of Indigenous Peoples of the North, Siberia and the Far East, Chairman of the State Duma of Yamal-Nenets Autonomous Okrug • Victor Kazarin, Vice-Governor of the Yamal-Nenets Autonomous Okrug • Lidia Dyachenko, Deputy Director of the Interracial Relations Department of the Ministry of Regional Development of the Russian Federation • Vyacheslav Nikonov, Member of the Public Chamber of the Russian Federation • Aqqaluk Lynge, Vice-Chair of the Permanent Forum • Chief, secretariat of the Permanent Forum on Indigenous Issues
10.45-11 a.m.	**Item 2: International standards and policies on indigenous peoples rights relevant to the meeting's topic** • United Nations Declaration on the Rights of Indigenous Peoples, as adopted by the Human Rights Council on 29 June 2006
11.20 a.m.-1 p.m.	**Item 2:** continued • Report of Workshop on Indigenous Peoples, Private Sector Natural Resource, Energy, Mining Companies and Human Rights: Wilton Littlechild • Interim report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (E/CN.4/2006/97): summary presented by the secretariat of the Permanent Forum • United Nations Global Compact: statement on behalf of the office of the Global Compact • 2003 report of the Special Rapporteur of the Human Rights Council on the situation of human rights and

	fundamental freedoms of indigenous people (E/CN.4/2003/90): Rodolfo Stavenhagen
	• Multilateral development banks and indigenous peoples in the Russian Federation: policies, procedures and compliance: George Holliday and Sonia Zilberman
3-4.20 p.m.	**Item 3: Relationship between indigenous peoples and industrial companies: international experiences (situation, achievements, challenges)**
	• Pacific region: Brian Wyatt and Michael Dodson
	• Asia: Parshuram Tamang, Qin Xiaomei
	• Latin America: Carlos Chex
4.40-6 p.m.	• Africa: Vital Bambanze, Liliane Muzangi Mbela, William Langeveldt
	• Arctic: Gunn-Britt Retter and Aqqaluk Lynge
	• North America: Logan Hennessy and Meerim Kylychbekova
	• Russian Federation: Sergey Kharychi; indigenous peoples' rights in legislation of the Yamal-Nenets Autonomous Okrug
	• Cooperation of the Yamal Company with indigenous peoples: Oleg Andreev
Tuesday, 3 July	
9.30-11 a.m.	**Item 4: Relationship between indigenous peoples and industrial companies: Russian experience (situation, achievements, challenges)**
	• Review of Russian legislation related to indigenous peoples: Olga Murashko
	• Relationship between indigenous peoples and industrial companies: the view of the Government of the Russian Federation: Lidia Dyachenko
	• Cooperation of Sakhalin Energy Investment Company with the indigenous people of Sakhalin: Yuliya Zavyalova
	• Examples of cooperation of Exxon Neftegas Ltd. with the indigenous peoples of Khabarovsk and Sakhalin regions: Natalya Ivanova
	• Cooperation of indigenous peoples and industrial companies in Sakha Republic (Yakutiya): Andrey Krivoshapkin

11.20 a.m.-1 p.m.	**Item 5: Examples of cooperation between indigenous peoples and industrial companies**
	• Cooperation of "Yamburggasdobycha" Company with indigenous peoples in the Yamal-Nenets Autonomous Okrug: Oleg Andreyev
	• Cooperation between indigenous peoples and industrial companies in the Purovsk area of the Yamal-Nenets Autonomous Okrug: Mariya Klimova
	• Environmental co-management of indigenous peoples and industrial companies in the framework of the "NPA Arctic" project: Ivan Senchenya
	• Lukoil Company: Konstantin Belyaev
	• Presentation of the International Development Fund for Indigenous Peoples of the North, Siberia and the Far East (Batani): Yana Dordina
1.45-2.45 p.m.	Drafting group (as necessary)
3-4 p.m.	**Item 5:** continued
4.20-6 p.m.	**Item 6: Conclusions and recommendations**

Annex II

List of participants

Name	*Functional title*
Eduardo Aguiar De Almeida	Member, Permanent Forum on Indigenous Issues
Oleg Andreyev	General director, "Yamburggasdobycha" Company
Hassan Id Balkassm	Member, Permanent Forum on Indigenous Issues
Vital Bambanze	Vice-President, Indigenous Peoples of Africa Coordinating Committee
Konstantin Belyaev	Chief mineral surveyor, Lukoil Company
Yuri Boychenko	Member, Permanent Forum on Indigenous Issues
Carlos Chex	Vice-President, Asociación Sotz'il, Guatemala; member, Indigenous Council of Central America
Michael Dodson	Member, Permanent Forum on Indigenous Issues
Yana Dordina	Director, International Development Fund for Indigenous Peoples of the North, Siberia and the Far East (Batani Fund)
Lidia Dyachenko	Deputy head, Department of Inter-ethnic Relations, Ministry of Regional Development, Russian Federation
Elia Gutierrez de Stavenhagen	Assistant to the Special Rapporteur of the Human Rights Council on the situation of human rights and fundamental freedoms of indigenous people
Logan Hennessy	Consultant, Pacific Environment; Assistant Professor, San Francisco State University
Charles Henri Hirsch	Chairman of the Board, closed joint stock company "Eurotek"
George Holliday	Programme Manager, Europe and Central Asia, Bank Information Center
Natalya Ivanova	Head of group on socio-economic issues, «Exxon Neftegas Ltd.»
Nikolay Kalashnikov	Second Secretary, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, Russian Federation
Sergey Kharychi	Chairman of the State Duma of Yamal-Nenets Autonomous Okrug; President of the Russian Association of Indigenous Peoples of the North, Siberia and the Far East (RAIPON)
Mariya Klimova	Chairman, Purovsky branch, Association "Yamal for Future Generations!"; Vice-President, RAIPON

Name	*Functional title*
Merike Kokajev	Member, Permanent Forum on Indigenous Issues
Lara Korablinova	Consultant, European Bank for Reconstruction and Development
Andrey Krivoshapkin	President, Association of Indigenous Peoples of Sakha Republic (Yakutia); Deputy, Parliament of Sakha Republic (Yakutia)
Meerim Kylychbekova	Russia Programme Associate, Pacific Environment
William Langeveldt	Member, Permanent Forum on Indigenous Issues
Wilton Littlechild	Member, Permanent Forum on Indigenous Issues
Aqqaluk Lynge	Member, Permanent Forum on Indigenous Issues
Olga Murashko	Representative, International Work Group for Indigenous Affairs
Liliane Muzangi Mbela	Member, Permanent Forum on Indigenous Issues
Li Nan	Deputy Director, Human Rights Division, Department of International Organizations and Conferences, Ministry of Foreign Affairs, China
Ida Nicolaisen	Member, Permanent Forum on Indigenous Issues
Vyacheslav Nikonov	Member, Public Chamber of the Russian Federation; President, "Polity" Foundation
Juan Fernando Núñez	Associate Social Affairs Officer, secretariat of the Permanent Forum on Indigenous Issues
Gunn-Britt Retter	Head, Arctic and Environmental Unit, Saami Council
Ivan Senchenya	Manager, United Nations Environment Programme/Global Environment Facility project "NPA Arctic"
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Vladimir Sherbakov	General director, "Terneyles" Company
Elsa Stamatopoulou	Chief, secretariat of the Permanent Forum on Indigenous Issues
Rodolfo Stavenhagen	Special Rapporteur of the Human Rights Council on the situation of human rights and fundamental freedoms of indigenous people
Pavel Sulyandziga	Member, Permanent Forum on Indigenous Issues; Member, Public Chamber of the Russian Federation; First Vice-President, RAIPON

Name	*Functional title*
Parshuram Tamang	**Member, Permanent Forum on Indigenous Issues**
Alexander Vorotnikov	**Head, Division on Regional Affairs and Informational Support, Department on Territorial Development, Ministry of Economic Development and Trade, Russian Federation**
Brian Wyatt	**Director, Goldfields Land and Sea Council, Australia**
Qin Xiaomei	**Member, Permanent Forum on Indigenous Issues**
Sonia Zilberman	**Programme Coordinator, Europe and Central Asia, Bank Information Center**
Yuliya Zavyalova	**Coordinator on indigenous peoples issues, Sakhalin Energy Investment Company**

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Permanent Forum on Indigenous Issues
Seventh session
New York, 21 April to 2 May 2008
Items 3, 4, 5, 7, 8 and 9 of the provisional agenda*

Special theme: "Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges"

Implementation of the recommendations on the six mandated areas of the Permanent Forum and on the Millennium Development Goals

Human rights: dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

Half-day discussion on indigenous languages

Ongoing priorities and themes and follow-up

Future work of the Permanent Forum, including emerging issues

Information received from Governments

Bolivarian Republic of Venezuela**

Summary

The Bolivarian Republic of Venezuela, out of a sense of social responsibility, has undertaken its commitments to indigenous communities and peoples with a view to restoring and rectifying the delayed exercise of their rights. Nowadays the Constitution of the Bolivarian Republic of Venezuela enshrines a wide range of rights for indigenous peoples and communities concerning their social, political and economic organization, their cultures, habits and customs, languages and religions, as well as their habitat and as the original inhabitants, the demarcation and respect for ownership of their lands.

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** The submission of the present document was delayed in order to include the most recent information.

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The Venezuelan State has thus been conscious of indigenous peoples as a subject of law who should participate in the development of public policies affecting them, in harmony with their livelihood and habitat, since it should be the indigenous peoples themselves who establish their own priorities and determine strategies for their development. Therefore, the Venezuelan Government considers it extremely important to empower indigenous peoples and provide them with the ability to design, plan, develop and implement their own policies and to participate in decision-making with the executive power, through the formation of a national institution with competence in the area which is led by indigenous representatives, that is, the Ministry of the People's Power for Indigenous Peoples, established approximately a year ago.

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I. Response to the recommendations by Governments under one or more articles of the mandate and/or agenda of the Forum at its sixth and prior sessions[1]

1. With regard to paragraph 21 of the report of the United Nations Permanent Forum on Indigenous Issues on its sixth session concerning recommendations to States parties to International Labour Organization (ILO) Convention No. 169 on indigenous and tribal peoples in independent countries, regarding the application of the principle of free, prior and informed consent of indigenous peoples to the use and exploitation of the natural resources in their lands and territories, we wish to state the following.

2. The right of indigenous peoples to utilize the natural resources found in their habitat is derived from the recognition of their rights as the original occupants of their ancestral and traditional lands and habitat, which are necessary to develop and safeguard their way of life, along with the recognition of their forms of social, political and economic organization. This right is contained in article 119 of the Constitution of the Bolivarian Republic of Venezuela.

3. The recognition of the rights to their habitat includes the possibility of control and decision-making by the indigenous communities regarding the activities taking place in or which may affect those areas; the possibility of involvement in the government established there; the right to collective title to land; the enjoyment of natural resources and the protection of areas sacred to indigenous peoples.

4. This right of control and decision of indigenous communities and peoples over the activities taking place in their habitat and territory is expressly established in article 120 of the Constitution of the Republic, which imposes on the State the obligation of informing and consulting with the indigenous communities prior to any proposed utilization of natural resources in their habitat.

5. The Basic Law on Indigenous Peoples and Communities devotes its chapter II to the right to prior informed consent. It establishes a series of guidelines for its due application, guaranteeing to indigenous peoples and communities respect for their institutions and authorities throughout the consultation process. The chapter's most important contribution is to make prior and informed consent binding, establishing it as an essential requirement for conducting any activity that might have a direct or indirect impact on indigenous communities or peoples.

6. Concerning the right of indigenous peoples and communities to collective land title, paragraphs 22 and 23 of the report of the Permanent Forum on Indigenous Issues on its sixth session make a set of recommendations to States, for instance, implementation of effective measures to put an end to land alienation in indigenous territories; provision of necessary financial and technical assistance for mapping the boundaries of their communal lands, and the adoption of the necessary legal and normative framework for the registration of collective titles for the lands they traditionally occupy.

7. Article 119 of the Constitution of the Bolivarian Republic of Venezuela recognizes the existence of indigenous peoples and communities, their social, political and economic organization, their cultures, habits and customs, languages

[1] *Official document of the Economic and Social Council, 2007, Supplement No. 43* (E/2007/43).

and religions, as well as their habitat and rights as the original occupants of their ancestral and traditional lands, and that those lands are necessary to develop and safeguard their way of life.

8. The Basic Law on Indigenous Peoples and Communities, in its article 23, recognizes and guarantees the rights of indigenous peoples and communities, as the original inhabitants, to their habitat and to collective title to the ancestral lands they have occupied, and imposes on the executive power, jointly with the indigenous peoples and communities, the obligation of marking the boundaries of their habitat and lands for the purpose of granting title, in accordance with the principles and procedures established in chapter III of the aforementioned law.

9. Beginning in 2002, the executive power, through the National Boundary Commission for the Habitat and Lands of Indigenous Peoples and Communities, in conformity with its internal operating regulations, launched a major process of marking the boundaries of habitats and territories at the national level in an organized and dynamic way, through the establishment of the respective Regional Commissions in states with an indigenous presence.

10. In the area of health, in paragraphs 60 to 68 of the report, the Forum expressed its concern at the realization of the right to health of indigenous peoples and need for States to implement plans, projects and other initiatives aimed at addressing the problems of indigenous peoples in the area of health in order to establish systems of indicators that could help to monitor their progress.

11. The Constitution of the Bolivarian Republic of Venezuela establishes in its article 83 that health is a basic social right, that the State has the obligation to guarantee it as part of the right to life, and must therefore promote and develop policies aimed at improving quality of life, collective well-being and access to services.

12. Under the Constitution, everyone has the right to protect their health, as well as the duty to participate actively in its promotion and protection, and to comply with health and sanitation measures established by law, in accordance with international treaties and conventions signed and ratified by the Republic.

13. The right to health and social security for indigenous peoples is recognized in article 122 of the Constitution, which establishes the right of indigenous peoples to comprehensive health care that takes their practices and cultures into consideration, along with the recognition of their traditional medicine and alternative therapies, subject to the principles of bioethics.

14. Likewise, the Basic Law on Indigenous Peoples and Communities includes a number of provisions intended to guarantee the right of indigenous peoples to use their traditional medicine and therapeutic practices, incorporating indigenous traditional medicine into the National Health Care System and the right of indigenous participation in health-care programmes and services and in the coordination of public health policies.

15. On the basis of the constitutional and legal framework for the protection of the right to health of indigenous peoples and communities, major changes have thus been implemented in the orientation of public health policies, most of which are consistent with the concept of this right, calling on the State to implement concrete

measures to guarantee access to health-care services for the entire population, including indigenous people.

16. With regard to paragraph 66 of its report, the Forum recommends that States, with the assistance of United Nations agencies, support free and universal civil registration of indigenous children and adolescents, on the basis of free, prior and informed consent of indigenous peoples. We wish to express the following views on this subject.

17. Article 56 of the Constitution of the Bolivarian Republic of Venezuela recognizes the right of every person to a name, to know the identity of his or her parents, to be entered in the civil registry free of charge and to obtain public documents proving his or her biological identity.

18. The Basic Law on the Protection of Children and Adolescents, in its articles 16, 17, 18, 21 and 22, establishes the right of all children and adolescents to a nationality, to be identified immediately after birth, to be entered in the Civil Registry and to obtain public identity documents.

19. The Basic Law on Identification, whose purpose is to regulate and guarantee the identification of all Venezuelan citizens both within and outside national territory, establishes provisions in its chapter III on the identification of indigenous peoples and communities, including the right of indigenous peoples to be issued identity documents, entry in the Civil Registry of children and adolescents, as well as those having reached the age of majority, respect for indigenous languages and dress, and exemption from fees for passports issued to indigenous people. The aforementioned Law also establishes that identification services shall be provided within indigenous communities on a permanent basis and shall remain free of charge.

20. The executive power, in order to guarantee the right to identity of members of indigenous peoples and communities, issued the Partial Regulations for the identification of indigenous peoples under the Basic Act on Identification, recognizing the right of indigenous peoples to identification, to maintain their ethnic and cultural identity and individual and collective self-identification as part of an indigenous community; to be entered in the Civil Registry and to obtain public documents that prove their ethnic identity, the duty of all citizens and competent authorities to respect the right to indigenous self-identification, and establishing the procedures for issuing identity documents to indigenous people, especially regarding the civil registration of indigenous children, adolescents and those having reached the age of majority.

21. Positive aspects of that law include the full guarantee of the right of all indigenous persons to identification and to maintain their ethnic and cultural identity through recognition of their individual and collective self-identification; simplification of procedures for obtaining an identity card for indigenous adults by eliminating the requirement of publishing a legal notice of its issuance; and establishment of efficient procedures for issuing identity documents free of charge based on the principles of transparency, equality, speed, social responsibility, disclosure and non-discrimination.

22. For its part, the Basic Law on Indigenous Peoples and Communities, in article 62, stipulates the right of identification of indigenous people through the issuance of appropriate identification documents, from birth, by the body with competence in

that area, through a procedure that respects the social and cultural organization, habits and customs, languages and geographical location of indigenous peoples and communities, free of charge and governed by the principles of transparency, equality, speed, social responsibility, non-discrimination and effectiveness. The provision in question also establishes the right of indigenous people to enter in the Civil Registry their given names and family names of indigenous origin.

23. Nevertheless, despite express recognition by the State of its obligations through the aforementioned constitutional and legal norms demonstrated through policies and plans proposed in the area of identity, the location of a large number of indigenous communities in places where access is difficult has been an obstacle to the implementation of measures intended to guarantee the identity rights of indigenous communities and peoples, especially for children and adolescents.

24. In paragraphs 71 and 72 of its report on the sixth session, the Permanent Forum on Indigenous Issues addressed questions regarding the right of indigenous peoples to their own culture, expressing the need for States, with the assistance and collaboration of United Nations bodies, especially the United Nations Educational, Scientific and Cultural Organization (UNESCO), to adopt specific and effective measures, such as laws or the implementation of public policies aimed at guaranteeing the rights inherent in indigenous culture, including protection of indigenous languages.

25. The Venezuelan State recognizes and guarantees the right of each of its national indigenous peoples and communities to enjoy their own culture, and to the protection and development of their ethnic and cultural identity, cosmology, values, spirituality and sacred and religious sites.

26. Along those lines, article 121 of the Constitution of the Republic stipulates that the State, in order to protect indigenous identity and culture, shall promote the appreciation and dissemination of cultural events of indigenous peoples, their right to their own educational system and an intercultural and bicultural educational curriculum that reflects their particular sociocultural identity, values and traditions.

27. The Basic Law on Indigenous Peoples and Communities, in title IV concerning indigenous education and culture, contains provisions on the right to their own culture; establishment of indigenous cultures as the culture of origin, and the obligations of the State regarding the preservation, reinforcement and dissemination of indigenous cultures; the right to use traditional clothing, dress and ornaments; the right to cultural identity and free development of the personality; the establishment of indigenous languages as official languages, their scope of application and indigenous methods of social communication.

28. In that regard, article 9 of the Constitution expressly recognizes indigenous languages and establishes that they may also be used officially by indigenous peoples and must be respected throughout the territory of the Republic, as they constitute the cultural heritage of the nation and humanity.

29. Concerning the use of indigenous languages, the efforts made by the Venezuelan Government for their dissemination, preservation and recovery should be noted, for example the obligatory use of indigenous languages in public and private educational establishments located in indigenous habitats as well as other rural and urban areas where indigenous groups reside, at all levels and in all segments of the national educational system, and the establishment of the National

Council on Indigenous Education, Cultures and Languages, an honorary standing advisory body to the executive power, to be consulted on indigenous community policy in the historical, cultural and linguistic fields.

30. With regard to the theme of human rights, in paragraph 74 of its report on the sixth session, the Permanent Forum on Indigenous Issues expressed concern at the situation of human rights of indigenous peoples in various parts of the world, and called upon States to recognize the rights of indigenous peoples constitutionally and legally, to strengthen their institutions and to promote and protect those rights. In that regard we believe it relevant to make the following observations.

31. The Bolivarian Republic of Venezuela, in accordance with the Constitution, is established as a democratic and social State subject to the rule of law and justice; as the highest values of its legal system, it advocates equality and the pre-eminence of human rights, as well as the establishment of a democratic society that is participatory, dynamic, multi-ethnic and multicultural in a federal and decentralized State under law.

32. The Constitution of the Bolivarian Republic of Venezuela, in chapter III of title III, enshrines the rights of indigenous peoples and communities, giving comprehensive recognition to their existence, social, political and economic organization, their cultures, habits and customs, languages and religions, as well as their habitat and ownership rights over the ancestral lands they have traditionally occupied, which are necessary to develop and safeguard their way of life and are the repository of their sacred values.

33. It also establishes that indigenous lands are inalienable, indefeasible, immune from seizure and non-transferable and that it is the responsibility of the State together with the indigenous peoples to mark the boundaries of these lands and to guarantee the right of indigenous communities and peoples to collective ownership of their lands.

34. The Constitution guarantees the cultural, social and economic integrity of indigenous habitats and establishes that the exploitation of existing natural resources shall be subject to prior information and consultation with the respective indigenous communities.

35. Likewise, the right of each indigenous people to maintain and develop its ethnic and cultural identity, cosmology, values, spirituality and its sacred and religious sites is enshrined, as well as the appreciation and dissemination of the cultural and linguistic heritage of indigenous peoples and the obligation of the State and society to ensure its maintenance, continuity, enrichment and appreciation.

36. The Constitution extends the following economic, social and cultural rights to indigenous communities and peoples: the right to their own educational system and an intercultural and bilingual educational curriculum that reflects their sociocultural specificities, values and traditions; the right to comprehensive health care that considers their practices and cultures; the right to maintain and promote their own traditional economic practices and productive activities, to participate in the national economy and to define their own priorities; and the enjoyment of the rights granted by labour legislation to all workers.

37. With the aim of safeguarding the knowledge, wisdom, practices and intellectual innovations and genetic resources of indigenous peoples from illegal

appropriation and commercial exploitation by natural and legal persons, the State guarantees and protects their collective property; patenting it is prohibited.

38. The Constitution, by guaranteeing the political participation of indigenous peoples through representation in the National Assembly and the deliberating bodies of federal and local governments of areas with indigenous populations, ensures their presence in the elaboration and discussion of national laws and regulations and their direct participation in decision-making bodies of the public authorities making up the State.

39. Finally, it establishes that indigenous peoples are part of national society and the Venezuelan people which is recognized as unified, sovereign and indivisible. The use of the term "people", as it is expressed in the Constitution, signifies the recognition of their specific identity, the social, cultural and economic characteristics specific to them and which differentiate them from the rest of society. Therefore, the use of the term cannot be interpreted in the sense given to it in international law.

40. The Basic Law on Indigenous Peoples and Communities recognizes and protects the existence of indigenous peoples as original inhabitants, guaranteeing the rights enshrined in the Constitution of the Bolivarian Republic of Venezuela, international treaties, covenants and conventions and other universally accepted norms, in order to ensure their active participation in the life of the Venezuelan nation, the preservation of their cultures, the exercise of self-determination in their internal affairs and to create the conditions to make this possible.

41. With its basis in the recognition of indigenous communities and peoples, the objective of the aforementioned Basic Law is to promote the principles of a democratic, participatory, dynamic, multi-ethnic, multicultural and multilingual society, in a federal and decentralized State under law; to safeguard and develop the collective and individual rights of indigenous communities and peoples; to protect their ways of life and sustainable development, with the foundation of their cultures and languages; and to establish mechanisms for relationships between indigenous peoples and communities and the public authorities and other sectors of national life.

42. Equally, the Basic Law on Indigenous Peoples and Communities includes a set of guiding principles and a comprehensive catalogue of fundamental, individual and collective rights to the benefit of indigenous communities and peoples, starting from the principle of prior and informed consent and the right to occupy their ancestral lands, preservation of their habitat and a healthy environment.

43. The following should be noted in the area of civil and political rights: the right to identification of indigenous peoples; the right to political participation and activism; and the right to recognition of their own organizations, the right to justice and due process and the right to recognition of their own customary law and special indigenous jurisdictions.

44. With regard to economic, social and cultural rights, the law covers the right to their own education and an intercultural and bilingual educational system; the right to their own culture; the right to wear traditional clothing, dress and ornaments; the right to cultural identity and the free development of the personality; the right to use indigenous languages as official languages and to indigenous methods of social communication; the right to freedom of religion; the right to collective intellectual

property; the right to health and to indigenous traditional medicine; the right to the full exercise of labour rights; and the right to a separate economic model and to maintain their traditional economic practices in their habitat and lands.

45. In observance of the right of indigenous peoples and communities to political participation, which is enshrined in article 125 of the Constitution, both the Local Public Planning Councils Act and the Communal Councils Act provide for and establish the inclusion and participation of representatives of indigenous communities and peoples at the municipal level, in accordance with their habits, customs and traditions.

46. In the same way, it is important to draw attention to the fact that the Constitution of the Bolivarian Republic of Venezuela has created the Office of the Ombudsman. The Office is an integral part of the civil authority. It has the power to promote, defend and monitor the rights and guarantees established in the Constitution and in international human rights treaties. Article 281, paragraph 8, states that the Office of the Ombudsman should "protect the rights of indigenous peoples and take such action as may be necessary to guarantee and protect such rights effectively".

47. The Office of the Ombudsman promotes, defends and monitors the constitutional rights and guarantees enjoyed by indigenous peoples and communities in the country. It ensures respect for the relevant human rights as provided for in international treaties, conventions and agreements duly signed by the Republic. To that effect, it takes the necessary action for those rights to be protected in a real and effective way, in keeping with article 15, paragraph 7, of the Basic Law on the Office of the Ombudsman.

48. Along the same lines, article 68 of the new Basic Law on Indigenous Peoples and Communities states as follows:

49. "The Office of the Ombudsman has a duty to promote, disseminate, defend and monitor the rights that are recognized for indigenous peoples and communities by the Constitution of the Bolivarian Republic of Venezuela, by the international treaties, covenants and conventions signed and ratified by the Republic, and any other legal provisions. The Office promotes the full defence of those rights and takes such administrative and judicial actions as may be necessary to guarantee and protect them effectively."

50. With regard to the protection and defence of the human rights of indigenous peoples and communities, it is worth pointing out that the Constitutional Division of the Supreme Court of Justice, in repeated rulings, has defined the competence of the Office of the Ombudsman to initiate *amparo* proceedings in respect of the common or collective interests of indigenous peoples and communities. An example is Decision No. 656, rendered on 30 June 2000 by Justice Jesús Eduardo Cabrera Romero. The decision states that while article 26 of the Constitution enshrines the right to access to justice for the hearing of common or collective interests, cases involving the Office of the Ombudsman must be brought before the judicial authorities in conformity with articles 280 and 281 of the Constitution of the Bolivarian Republic of Venezuela. These articles give the Office competence in matters pertaining to the defence and monitoring of the legitimate collective and common interests of citizens.

51. In view of the foregoing, the aforementioned judicial decision establishes that the Office of the Ombudsman is entitled to initiate legal actions aimed at enforcing rights or common or collective interests, without requiring the acquiescence of the group on whose behalf it is acting. By law, the Office of the Ombudsman also acquires a legitimate interest to proceed with legal action in respect of a right granted it by the Constitution in article 281, namely to protect society or groups within society.

52. In the light of the general provision of article 280 of the Constitution, regarding the general defence and monitoring of common and collective interests, the judicial decision under discussion determined that the Office of the Ombudsman can take action to protect such rights and interests where consumers and users generally are concerned (article 281, paragraph 6), or to protect the rights of indigenous peoples (paragraph 8). Although the defence and protection of those categories is one of the competences granted to the Office by article 281, that protection is general and does not apply to individuals.

53. It follows that the Office of the Ombudsman is entitled only to take action in defence of the collective or common rights of indigenous peoples and communities. However, as the Supreme Court of Justice made clear, it is not authorized to initiate legal action or appeals aimed at protecting the direct or individual rights and interests of indigenous persons.

54. For that reason, article 138 of the Basic Law on Indigenous Peoples and Communities provides for the creation of the Indigenous Public Defender's Office, whose task will be to represent and defend members of indigenous communities in any matter. Article 138 states:

55. "Article 138. With a view to guaranteeing the right to defence of indigenous persons, the Indigenous Public Defender's Office is hereby created within the Public Defence system of the Supreme Court of Justice. Persons appointed as public defenders for indigenous persons shall be required to be attorneys and to have knowledge concerning the culture and rights of indigenous peoples and communities. The public defenders of indigenous persons have the competence to represent and defend indigenous persons in all matters and before all administrative and judicial authorities, whether national or international."

56. In terms of the article cited above, public defenders of indigenous persons will have the task of acting in defence of the individual rights of members of indigenous communities or peoples in any matter before the administrative or judicial authorities.

57. At the same time, article 34 of the Basic Law on the Office of the Ombudsman provides for the creation of Special Delegate Offices of the Ombudsman with nationwide jurisdiction. The mandate of the Offices will be to give technical support as a specialized advisory body to the different departments of the Office of the Ombudsman. Their role is to design, plan and coordinate legal actions contributing to the promotion, defence and monitoring of the rights and guarantees enshrined in the Constitution of the Republic, in international instruments and in sectors and topics that deserve special attention.

58. To that end, article 38 of that Law provides for the creation of the Indigenous Special Delegate Office of the Ombudsman in each of the federal entities with an

indigenous population, in order to promote, monitor and defend the rights of indigenous populations.

59. The Special Office of the Ombudsman with National Jurisdiction for the Protection of the Rights of Indigenous Peoples was created as an advisory body specialized in designing, planning and coordinating legal actions that contribute to the protection and strengthening of cultural identity, and to help protect, defend and monitor the rights and guarantees enjoyed by indigenous peoples and communities in the country, in keeping with the Constitution of the Republic and with the treaties, conventions and agreements duly signed by the Republic.

60. Regarding the subject of urban indigenous peoples and migration, the Forum, in paragraphs 107 and 116 of its report, has expressed its concern about global migration, which increasingly affects indigenous peoples, creating significant problems for the preservation of their cultures and livelihoods. The Forum therefore recommended that on the basis of the recognition of indigenous peoples' right to prior, free and informed consent, States should provide the necessary support for involuntarily displaced indigenous peoples to be able to return to their original communities, in addition to providing for the sustainable livelihoods of those peoples. In this respect, we believe it is appropriate to set out the following considerations.

61. We believe it is appropriate to refer to the process whereby the Warao people have migrated from their environment to the urban areas of the country, and to recall the action taken by the Office of the Ombudsman. The coinciding structural causes that led to the intensification of the periodic and systematic migration of indigenous Warao families towards urban and central parts of the country have to do with a combination of factors and events. From the late 1960s and early 1970s, all of these elements led consistently and ever more rapidly to the deterioration of the traditional Warao environment in the Orinoco Delta and of their ancestral culture. The latter had gained its vitality in close interrelation with the environment of the Delta and its natural resources such as water, *moriche* groves, the fan palm and other local fauna and flora.

62. The principal causes include the closing off of the Caño Mánamo; the forced and glaringly indiscriminate exploitation of the fan palm, timber and fisheries; the wanton search for and extraction of oil, which contaminated and violated the environment of the Delta and the integrity of the Warao people; and the scant attention paid by the executive power (whether on a national, regional or municipal level) to the reality, needs and expectations of the Warao.

63. Faced with this situation, the Office of the Ombudsman as defender of indigenous rights took part in various operations organized and carried out by the Mayor's Office of the Municipality of Libertador, Capital District, in order for those families to move and return to their original communities.

64. In the same way, from the last three months of 2002, the Office of the Ombudsman began to evaluate and follow up the Sustainable Development Project for the Orinoco Delta Biosphere Reserve, under the aegis of the Ministry of the Environment and Natural Resources and with the cooperation of the United Nations Development Programme (UNDP). It focused in particular on the process of consultation and awareness-raising among the Warao people: the project implies an

overall improvement in the quality of life of some 120 Warao communities numbering some 15,000 individuals.

II. Given the special emphasis that the Forum places on indigenous children, youth and women, data collection and disaggregation, with free and informed consent

65. An analysis of poverty and its relationship to work shows that women in the Bolivarian Republic of Venezuela make up 51 per cent of the total workforce that the economy needs for national production. This amount is the cumulative result of their contribution in paid employment (38 per cent) and 99 per cent of required domestic work. There is also evidence that, in a labour market characterized by labour segmentation and income inequality, employment opportunities are unequal for women from different social strata. The study also shows the importance of women's work in reducing poverty and improving living conditions, particularly nutrition and education for children.

66. The Bolivarian Republic of Venezuela is currently achieving very high educational standards. According to the results of the Ministry of Education's 2006 report and statement on villages with indigenous communities, almost all of Venezuela's youth population is literate: between 15 and 24 years of age, 98 out of every 100 women and 96 out of every 100 men in Venezuela are literate. This makes it possible to design competitive policies for a world where knowledge is of great importance.

67. Furthermore, the Guaicaipuro mission has been relaunched. It aims to coordinate, promote, organize and ensure the viability of the Bolivarian Government's policies, plans, programmes and projects with a view to their practical application and to accelerating their implementation in communities, municipalities and cities, in conjunction with municipal councils and indigenous peoples' own organizations in Venezuela.

68. Women play a very important role in teaching and transferring culture to new generations within indigenous peoples and communities. There are also governmental bodies which provide tools for improved development, growth and comprehensive assistance with respect to indigenous children, adolescents and women, as well as other bodies which foster social integration, such as:

69. Shaman healing centres, where ancestral knowledge is used;

70. Indigenous municipalities, where women play a very important role in the establishment of the principles of awareness of their ancestors, and where the equality and kinship of all members of the community is the rule.

III. Factors facilitating the implementation of the Forum's recommendations

71. The Venezuelan State has focused on addressing the needs of indigenous peoples and communities. Part of this commitment centres on restoring the ancestral, cultural and historical values of indigenous peoples. It has therefore embarked on the development, planning, coordination and implementation of

policies through an intercultural approach which, with the participation of indigenous peoples and communities, provides short-, medium- and long-term solutions to the urgent needs of this population through intercultural and multiethnic advocates who implement a system of services in order to ensure the quality and efficiency of programmes for indigenous peoples in Venezuela. This social development is also supported by other governmental institutions.

IV. Specific laws, policies and other similar tools to address indigenous affairs

72. In the legislative field, the Venezuelan State has implemented important legislative measures in order to ensure the protection and full enjoyment of the rights of indigenous peoples and communities. Such efforts mainly take the form of the 1999 Constitution of the Bolivarian Republic of Venezuela and a large number of legal instruments, laws, regulations and decrees. Foremost among these are the following:

(1) The Constitution of the Bolivarian Republic of Venezuela (1999);

(2) Interministerial resolution No. 80/6 (MAC-MJ) concerning the establishment of an area occupied by indigenous peoples in the Sierra de Perijá (1961);

(3) Resolution No. 5 (MSAS) concerning the establishment of the Advisory Commission on the National Programme for the Health of Indigenous Populations (1988);

(4) Decree No. 1635 concerning the Alto Orinoco-Casiquiare Biosphere Reserve (1991);

(5) Decree No. 1633 concerning the Orinoco Delta Biosphere Reserve (1991);

(6) Criminal law on the environment (1992);

(7) Resolution No. 453 of the Ministry of Education, Culture and Sport concerning the use of indigenous languages, second stage (1992);

(8) Decree No. 64 concerning the establishment of the National Border Council (1994);

(9) Basic law on the protection of children and adolescents (1998);

(10) National Geography, Mapping and Land Registry Act (2000);

(11) Indigenous Peoples' Habitat and Lands Demarcation and Protection Act (2001);

(12) Decree No 1.392, establishing, on a temporary basis, the Presidential Commission, known as the National Boundary Commission for Indigenous Peoples' Habitat and Lands (2001);

(13) Basic law on education (2001);

(14) Decree No. 1.795, providing for the mandatory use of indigenous languages, both orally and in writing, in public and private educational institutions

located in indigenous habitats, as well as in other rural and urban areas inhabited by indigenous peoples, for all levels and forms of the national education system (2002);

(15) Decree No. 1.796, establishing the National Council for Cultural Education and Indigenous Languages (2002);

(16) A decree for 12 October of each year to be commemorated as the "Day of Indigenous Resistance" in recognition of our Americanist self-affirmation of unity and cultural and human diversity, and as an assertion both of the claims of the indigenous peoples of America and of the contributions of African, Asian and European peoples and cultures in shaping our nationality, in the spirit of a dialogue of civilizations, peace and justice (2002);

(17) An agreement requesting the executive branch, and particularly the National Boundary Commission, to act swiftly in the demarcation of indigenous peoples' ancestral habitat and lands in Venezuela (2003);

(18) Decree No. 2.686, promulgating regulations for the Basic Law on the Identification of Indigenous Peoples (2003);

(19) A resolution establishing the Special Office of the Ombudsman, which has competence at the national level in protecting the rights of indigenous peoples (2003);

(20) Basic law on the Office of the Ombudsman (2004);

(21) Decree No. 3.040, establishing the Guaicaipuro mission through the Presidential Commission (2004);

(22) Basic law on Indigenous Peoples and Communities (2005);

(23) Basic law on Identification (2006);

(24) Basic law on the Environment (2006);

(25) Municipal Councils Act (2006);

(26) An agreement requesting the inclusion in the new National Plan of operational strategic guidelines concerning the original, historical and specific rights of indigenous peoples and communities (2006);

(27) A decree on the organization and functioning of national public administration (2007);

(28) Basic law on the Public Prosecutor's Office (2007);

(29) Decree No. 5.287, promulgating the basic regulations of the Ministry of the People's Power for Education (2007);

(30) The Political Constitutions of the following federal entities: Amazonas, Anzoátegui, Apure, Bolívar, Delta Amacuro, Monagas, Sucre and Zulia.

V. National institutions (ministries), divisions, units and focal points for indigenous affairs

73. The following institutions are particularly noteworthy:

(1) The Ministry of the People's Power for Indigenous Peoples;

(2) The Intercultural and Bilingual Education Directorate of the Ministry of the People's Power for Education;

(3) The Indigenous Communities Liaison Office of the Ministry of the People's Power for Culture;

(4) The Indigenous Health Directorate of the Ministry of the People's Power for Health;

(5) The Indigenous Parliament of America;

(6) The National Assembly's Permanent Commission for Indigenous Peoples;

(7) The National Boundary Commission for Indigenous Peoples' Habitat and Lands of the Ministry of the People's Power for the Environment;

(8) The Indigenous Documentation Office of the National Identification and Aliens Office (ONIDEX), attached to the Ministry of the People's Power for Internal Relations and Justice.

VI. Regular programmes to build capacity on indigenous affairs for national civil service staff

74. With a view to strengthening and developing cognitive abilities and disseminating public policies for indigenous peoples and communities, the State, through the Ministry of the People's Power for Indigenous Peoples and other governmental bodies, has provided for the implementation of a series of forums and workshops to be held with the participation of indigenous peoples and communities as well as State governmental agencies.

VII. Plans for activities related to the targets, objectives and Programme of Action of the Second International Decade for the World's Indigenous Peoples

75. The State plans to continue to safeguard the languages and cultures of indigenous peoples and to recover their lands by recognizing their territory and returning it to indigenous communities. This would ensure the enjoyment of economic, social, cultural and political rights by indigenous peoples and communities in Venezuela.

VIII. Information relating to the promotion and/or implementation of the Declaration on the Rights of Indigenous Peoples and suggestions for how the secretariat of the Permanent Forum, in accordance with article 42 of the Declaration, could engage in a constructive dialogue with Member States to promote respect for the full implementation of the Declaration and its effective follow-up

76. As reflected in its replies to the questionnaire,[2] the Venezuelan State launched its programme for the promotion and respect of the rights of indigenous peoples in 1999 through the entry into force of the Constitution of the Bolivarian Republic of Venezuela. Since then, it has been emphatic in the implementation of favourable policies for indigenous peoples and communities. These rights were recognized in the new United Nations Declaration on the Rights of Indigenous Peoples.

77. However, in order to achieve an open dialogue between the Forum and Member States, special attention must be paid to the problems of indigenous peoples and communities in accordance with their characteristics, which vary depending on their legal status, country and region.

IX. Conclusions

78. Following the entry into force of the 1999 Constitution, the Bolivarian Republic of Venezuela has made progress in defending and promoting the recognition of the rights of indigenous peoples and communities, although there is still a long road ahead. In that context, laws, decrees and agreements were published which proclaim the economic, social and cultural rights of indigenous peoples and communities, together with their civil and political rights. Venezuela therefore belongs to those States that have a comprehensive system to fully protect and safeguard the rights of indigenous peoples.

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[2] This note is in reply to the United Nations questionnaire requested by the Permanent Forum on Indigenous Issues.